

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.7, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

The proposed amendments revise Medicaid home- and community-based services (HCBS) waiver rules regarding the consumer choices option (CCO). Under this option, the cost of certain services that a member needs is rolled into an individual budget that the member manages with the help of an independent support broker. The member may hire providers that are not enrolled with Iowa Medicaid. Bills are paid through a participating financial institution rather than through the Iowa Medicaid Enterprise. CCO is offered under the AIDS/HIV, brain injury, elderly, intellectual disabilities (formerly mental retardation), ill and handicapped, and physical disability waivers.

The proposed amendments change waiver rules to conform to federal guidance on the allowable uses of waiver funds. The amendments:

- Clarify that services, supports, and items purchased with a CCO individual budget must be directly related to a personal goal or assessed need of the member as identified in the member’s service plan.
- Specify that respite services, specialized medical equipment, assistive devices, and supported employment services to obtain a job are not subject to a utilization factor in determining the amount of an individual budget.
- Establish criteria for the purchase of individual-directed goods and services and add a list of items that cannot be purchased using the individual budget. The list is not intended to be exhaustive.
- Provide that amounts budgeted for home and vehicle modifications or for specialized medical equipment or assistive devices shall not be used for anything other than the specific item or service and shall not include the costs of the financial management services or the independent support broker.
- Identify criteria for the development and use of a savings plan within the individual budget. The amendments provide that, except for respite services, savings from monthly amounts allocated to other waiver services that are not used may not be added to the savings plan, but shall revert to the Department at the end of each month. Likewise, unexpended funds remaining in the savings plan at the end of the calendar year shall revert to the Department.
- Clarify that the individual budget must be approved before purchases are made.
- Remove the ability of a member to hire a person with a criminal or abuse history to provide CCO services.
- Clarify the reimbursement rates that can be negotiated between a member and the member’s employees.

The proposed amendments also change the word “consumer” to “member” where applicable in the rules amended.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before June 30, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will also hold a public hearing for the purpose of receiving comments on these proposed amendments on Wednesday, June 30, 2010, from 10:30 a.m. till 12 noon at the Iowa Medicaid Enterprise Building, 100 Army Post Road, Des Moines, Iowa. Persons with disabilities who require assistive services or devices to observe or participate should contact the Bureau of Policy Coordination at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 78.34(13) as follows:

78.34(13) Consumer choices option. The consumer choices option provides a ~~consumer member~~ consumer member with a flexible monthly individual budget that is based on the ~~consumer's member's~~ consumer member's service needs. With the individual budget, the ~~consumer member~~ consumer member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

a. Agreement. As a condition of participating in the consumer choices option, a ~~consumer member~~ consumer member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer member~~ consumer member has been informed of the responsibilities and risks of electing the consumer choices option.

b. Individual budget amount. A monthly individual budget amount shall be ~~set~~ established for each ~~consumer.~~ consumer. ~~The consumer's department service worker or case manager shall determine the amount of each consumer's individual budget, based~~ member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan. The ~~consumer member~~ consumer member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ consumer member in the HCBS ill and handicapped waiver are:

1. to 5. No change.

(2) The department shall determine an average unit cost for each service ~~selected under~~ listed in subparagraph ~~(4)~~ 78.34(13)"b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's member's~~ consumer member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.34(13)"b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.34(13)"b"(3).

~~(5)~~ (6) Anticipated costs for home and vehicle modification are not subject to the average cost in subparagraph ~~(2)~~ 78.34(13)"b"(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.34(13)"b"(3). Anticipated costs for home and vehicle modification shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. Costs for home and vehicle modification may be released paid to the financial management services provider in a one-time payment.

~~(6)~~ (7) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

c. Required service components. To participate in the consumer choices option, a ~~consumer member~~ consumer member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid ~~HCBS ill and handicapped waiver services~~ provider.

(1) Before hiring the ~~individual~~ independent support broker, the ~~consumer member~~ shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

(2) ~~If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

d. Optional service components. A ~~consumer member~~ who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's member's~~ home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer member~~ remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer member~~ in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the ~~consumer's member's~~ service plan. The item or service shall ~~decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.
2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.
3. Be accommodated within the member's budget without compromising the member's health and safety.
4. Be provided to the member or directed exclusively toward the benefit of the member.
5. Be the least costly to meet the member's needs.
6. Not be available through another source.

e. Development of the individual budget. The ~~individual~~ independent support broker shall assist the ~~consumer member~~ in developing and implementing the ~~consumer's member's~~ individual budget. The individual budget shall include:

- (1) The costs of the financial management service.
- (2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the ~~consumer member~~ as described in paragraph ~~"d."~~ 78.34(13)~~"d."~~ Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.
2. Clothing not related to an assessed medical need.
3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.
4. Costs associated with shipping items to the member.
5. Experimental and non-FDA-approved medications, therapies, or treatments.
6. Goods or services covered by other Medicaid programs.
7. Home furnishings.
8. Home repairs or home maintenance.
9. Homeopathic treatments.
10. Insurance premiums or copayments.

11. Items purchased on installment payments.
12. Motorized vehicles.
13. Nutritional supplements.
14. Personal entertainment items.
15. Repairs and maintenance of motor vehicles.
16. Room and board, including rent or mortgage payments.
17. School tuition.
18. Service animals.
19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.
21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.
22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification. When authorized, the budget may include an amount allocated for a home or vehicle modification. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.34(13) "d." The savings plan shall meet the requirements in paragraph 78.34(13) "f."

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

- (1) The savings plan shall identify:
 1. The specific goods, services, supports or supplies to be purchased through the savings plan.
 2. The amount of the individual budget allocated each month to the savings plan.
 3. The amount of the individual budget allocated each month to meet the member's identified service needs.
 4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member's identified need,
2. Be medically necessary, and
3. Be approved by the member's case manager or service worker.
- (4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The ~~consumer member~~ shall have authority over the individual budget authorized by the department to perform the following tasks:

- (1) Contract with entities to provide services and supports as described in this subrule.
- (2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).
- (3) Schedule the provision of services.
- (4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~
- (5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

g. h. Delegation of budget authority. The ~~consumer member~~ may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

- (1) The representative must be at least 18 years old.
- (2) The representative shall not be a current provider of service to the ~~consumer member~~.
- (3) The ~~consumer member~~ shall sign a consent form that designates who the ~~consumer member~~ has chosen as a representative and what responsibilities the representative shall have.
- (4) The representative shall not be paid for this service.

h. i. Employer authority. The ~~consumer member~~ shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer member~~ may perform the following functions:

- (1) to (8) No change.

i. j. Employment agreement. Any person employed by the ~~consumer member~~ to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer member~~ that outlines the employee's and ~~consumer's member's~~ responsibilities.

j. k. Responsibilities of the independent support broker. The independent support broker shall perform the following services as directed by the member or the member's representative:

- (1) Assist the ~~consumer member~~ with developing the ~~consumer's member's~~ initial and subsequent individual budgets and with making any changes to the individual budget.
- (2) Have monthly contact with the ~~consumer member~~ for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.
- (3) Complete the required employment packet with the financial management service.
- (4) Assist with interviewing potential employees and entities providing services and supports if requested by the ~~consumer member~~.
- (5) Assist the ~~consumer member~~ with determining whether a potential employee meets the qualifications necessary to perform the job.
- (6) Assist the ~~consumer member~~ with obtaining a signed consent from a potential employee to conduct background checks if requested by the ~~consumer member~~.
- (7) Assist the ~~consumer member~~ with negotiating with entities providing services and supports if requested by the ~~consumer member~~.
- (8) Assist the ~~consumer member~~ with contracts and payment methods for services and supports if requested by the ~~consumer member~~.
- (9) Assist the ~~consumer member~~ with developing an emergency backup plan. The emergency backup plan shall also address any health and safety concerns.
- (10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.
- (11) Document in writing on the independent support broker timecard every contact the broker has with the ~~consumer member~~. Contact documentation shall include information on the extent to which

the ~~consumer's~~ member's individual budget has addressed the ~~consumer's~~ member's needs and the satisfaction of the ~~consumer~~ member.

~~k.1.~~ *Responsibilities of the financial management service.* The financial management service shall perform all of the following services:

(1) to (3) No change.

(4) Provide real-time individual budget account balances for the ~~consumer~~ member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).

(5) Conduct criminal background checks on potential employees, ~~if requested.~~

(6) Verify for the ~~consumer~~ member an employee's citizenship or alien status.

(7) Assist the ~~consumer~~ member with fiscal and payroll-related responsibilities.—Key employer-related tasks include including, but not limited to:

1. to 10. No change.

~~(8) Purchase from the individual budget workers' compensation or other forms of insurance, as applicable or if requested by the consumer.~~

~~(9) (8)~~ Assist the ~~consumer~~ member in completing required federal, state, and local tax and insurance forms.

~~(10) (9)~~ Establish and manage documents and files for the ~~consumer~~ member and the ~~consumer's~~ member's employees.

~~(11) (10)~~ Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each ~~consumer~~ member for a total of five years.

~~(12) (11)~~ Provide ~~monthly and quarterly status reports for~~ to the department, the independent support broker, and the ~~consumer~~ member ~~monthly and quarterly status reports~~ that include a summary of expenditures paid and amount of budget unused.

~~(13) (12)~~ Establish an accessible customer service system and a method of communication for the ~~consumer~~ member and the ~~individual~~ independent support broker that includes alternative communication formats.

~~(14) (13)~~ Establish a customer services complaint reporting system.

~~(15) (14)~~ Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.

~~(16) (15)~~ Develop a business continuity plan in the case of emergencies and natural disasters.

~~(17) (16)~~ Provide to the department an annual independent audit of the financial management service.

~~(18) (17)~~ Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 2. Amend subrule 78.37(16) as follows:

78.37(16) Consumer choices option. The consumer choices option provides a ~~consumer~~ member with a flexible monthly individual budget that is based on the ~~consumer's~~ member's service needs. With the individual budget, the ~~consumer~~ member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

a. Agreement. As a condition of participating in the consumer choices option, a ~~consumer~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer~~ member has been informed of the responsibilities and risks of electing the consumer choices option.

b. Individual budget amount. A monthly individual budget amount shall be set ~~established~~ for each ~~consumer~~. ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget,~~ member based on the assessed needs of

the member and on the services and supports authorized in the ~~consumer's~~ member's service plan. The ~~consumer member~~ shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ in the HCBS elderly waiver are:

1. to 9. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(4)~~ 78.37(16) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's~~ member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.37(16) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.37(16) "b"(3).

~~(5)~~ (6) Anticipated costs for home and vehicle modification and assistive devices are not subject to the average cost in subparagraph ~~(2)~~ 78.37(16) "b"(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.37(16) "b"(3). Anticipated costs for home and vehicle modification and assistive devices shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications and assistive devices shall be identified in the member's service plan and approved by the case manager or service worker. Costs for home and vehicle modification and assistive devices may be released paid to the financial management services provider in a one-time payment.

~~(6)~~ (7) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

c. Required service components. To participate in the consumer choices option, a ~~consumer member~~ must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS elderly waiver services provider.

~~(1)~~ Before hiring the ~~individual independent~~ support broker, the ~~consumer member~~ shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2)~~ ~~If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

d. Optional service components. A ~~consumer member~~ who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's~~ member's home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer member~~ remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer member~~ in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the ~~consumer's~~ member's service plan. The item or service shall ~~decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.

2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

e. Development of the individual budget. ~~The individual~~ independent support broker shall assist the consumer member in developing and implementing the consumer's member's individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than ~~20~~ 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the consumer member as described in paragraph "d." 78.37(16) "d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

13. Nutritional supplements.

14. Personal entertainment items.

15. Repairs and maintenance of motor vehicles.

16. Room and board, including rent or mortgage payments.

17. School tuition.

18. Service animals.

19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification or assistive device. When authorized, the budget may include an amount allocated for a home or vehicle modification or assistive device. Before becoming part of the individual budget, all home and vehicle modifications and assistive devices shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification or device.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services

as defined in paragraph 78.37(16)“d.” The savings plan shall meet the requirements in paragraph 78.37(16)“f.”

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member’s identified service needs.

4. How the member’s assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member’s identified need,

2. Be medically necessary, and

3. Be approved by the member’s case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member’s needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The ~~consumer~~ member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

g. h. Delegation of budget authority. The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

(1) The representative must be at least 18 years old.

(2) The representative shall not be a current provider of service to the ~~consumer~~ member.

(3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.

(4) The representative shall not be paid for this service.

~~h. i.~~ *Employer authority.* The ~~consumer member~~ shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer member~~ may perform the following functions:

(1) to (8) No change.

~~i. j.~~ *Employment agreement.* Any person employed by the ~~consumer member~~ to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer member~~ that outlines the employee's and ~~consumer's member's~~ responsibilities.

~~j. k.~~ *Responsibilities of the independent support broker.* The independent support broker shall perform the following services ~~specified in 78.34(13)"j."~~ as directed by the member or the member's representative:

(1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.

(2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.

(3) Complete the required employment packet with the financial management service.

(4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.

(5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.

(6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.

(7) Assist the member with negotiating with entities providing services and supports if requested by the member.

(8) Assist the member with contracts and payment methods for services and supports if requested by the member.

(9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.

(10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.

(11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

~~k. l.~~ *Responsibilities of the financial management service.* The financial management service shall perform all of the following services ~~specified in 78.34(13)"k."~~:

(1) Receive Medicaid funds in an electronic transfer.

(2) Process and pay invoices for approved goods and services included in the individual budget.

(3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.

(4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).

(5) Conduct criminal background checks on potential employees.

(6) Verify for the member an employee's citizenship or alien status.

(7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

1. Verifying that hourly wages comply with federal and state labor rules.

2. Collecting and processing timecards.

3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.

4. Computing and processing other withholdings, as applicable.

5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.
6. Preparing and issuing employee payroll checks.
7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
8. Processing federal advance earned income tax credit for eligible employees.
9. Refunding over-collected FICA, when appropriate.
10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member's employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 3. Amend subrule 78.38(9) as follows:

78.38(9) *Consumer choices option.* The consumer choices option provides a ~~consumer member~~ member with a flexible monthly individual budget that is based on the ~~consumer's member's~~ member's service needs. With the individual budget, the ~~consumer member~~ member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

a. Agreement. As a condition of participating in the consumer choices option, a ~~consumer member~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer member~~ member has been informed of the responsibilities and risks of electing the consumer choices option.

b. Individual budget amount. A monthly individual budget amount shall be set established for each ~~consumer~~. ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget, member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan.~~ The ~~consumer member~~ member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ member in the HCBS AIDS/HIV waiver are:

1. to 4. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(+) 78.38(9) "b"(1)~~ based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's member's~~ member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.38(9) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.38(9) "b"(3).

~~(5)~~ (6) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

c. Required service components. To participate in the consumer choices option, a ~~consumer member~~ must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS AIDS/HIV waiver services provider.

(1) Before hiring the ~~individual independent~~ support broker, the ~~consumer member~~ shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2) If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

d. Optional service components. A ~~consumer member~~ who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's member's~~ home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer member~~ remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer member~~ in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the consumer's member's service plan. The item or service shall decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community. meet the following requirements:

1. Promote opportunities for community living and inclusion.

2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

e. Development of the individual budget. The ~~individual independent~~ support broker shall assist the ~~consumer member~~ in developing and implementing the ~~consumer's member's~~ individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the ~~consumer member~~ as described in paragraph ~~"d."~~ 78.38(9) "d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

13. Nutritional supplements.

14. Personal entertainment items.

15. Repairs and maintenance of motor vehicles.

16. Room and board, including rent or mortgage payments.

17. School tuition.

18. Service animals.

19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification. When authorized, the budget may include an amount allocated for a home or vehicle modification. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.38(9) "d." The savings plan shall meet the requirements in paragraph 78.38(9) "f."

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed

personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member's identified need,
2. Be medically necessary, and
3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The ~~consumer~~ member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

g. h. Delegation of budget authority. The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

(1) The representative must be at least 18 years old.

(2) The representative shall not be a current provider of service to the ~~consumer~~ member.

(3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.

(4) The representative shall not be paid for this service.

h. i. Employer authority. The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:

(1) to (8) No change.

i. j. Employment agreement. Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.

j. k. Responsibilities of the independent support broker. The independent support broker shall perform the following services ~~specified in 78.34(13) "j."~~ as directed by the member or the member's representative:

(1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.

(2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.

(3) Complete the required employment packet with the financial management service.

(4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.

(5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.

(6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.

(7) Assist the member with negotiating with entities providing services and supports if requested by the member.

(8) Assist the member with contracts and payment methods for services and supports if requested by the member.

(9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.

(10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.

(11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

k. l. Responsibilities of the financial management service. The financial management service shall perform all of the following services specified in 78.34(13) "k.":

(1) Receive Medicaid funds in an electronic transfer.

(2) Process and pay invoices for approved goods and services included in the individual budget.

(3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.

(4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).

(5) Conduct criminal background checks on potential employees.

(6) Verify for the member an employee's citizenship or alien status.

(7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

1. Verifying that hourly wages comply with federal and state labor rules.

2. Collecting and processing timecards.

3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.

4. Computing and processing other withholdings, as applicable.

5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.

6. Preparing and issuing employee payroll checks.

7. Preparing and disbursing IRS Forms W-2 and W-3 annually.

8. Processing federal advance earned income tax credit for eligible employees.

9. Refunding over-collected FICA, when appropriate.

10. Refunding over-collected FUTA, when appropriate.

(8) Assist the member in completing required federal, state, and local tax and insurance forms.

(9) Establish and manage documents and files for the member and the member's employees.

(10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.

(11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.

(12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.

(13) Establish a customer services complaint reporting system.

(14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.

(15) Develop a business continuity plan in the case of emergencies and natural disasters.

(16) Provide to the department an annual independent audit of the financial management service.

(17) Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 4. Amend subrule 78.41(15) as follows:

78.41(15) Consumer choices option. The consumer choices option provides a ~~consumer member~~ member with a flexible monthly individual budget that is based on the ~~consumer's member's~~ member's service needs. With the individual budget, the ~~consumer member~~ member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

a. Agreement. As a condition of participating in the consumer choices option, a ~~consumer member~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer member~~ member has been informed of the responsibilities and risks of electing the consumer choices option.

b. Individual budget amount. A monthly individual budget amount shall be ~~set~~ established for each ~~consumer.~~ member ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget,~~ based on the assessed needs of the member and on the services and supports authorized in the member's service plan. The ~~consumer member~~ member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ member in the HCBS ~~mental-retardation~~ intellectual disabilities waiver are:

1. to 8. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(4)~~ 78.41(15) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's member's~~ member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.41(15) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.41(15) "b"(3).

~~(5) (6)~~ (6) (7) Anticipated costs for home and vehicle modification and supported employment services to obtain a job are not subject to the average cost in subparagraph ~~(2)~~ 78.41(15) "b"(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.41(15) "b"(3). Anticipated costs for these services shall not include the costs of the financial management services or the independent support broker. Costs for home and vehicle modification and supported employment services to obtain a job may be ~~released~~ paid to the financial management services provider in a one-time payment. Before becoming part of the individual budget, all home and vehicle modifications and supported employment services to obtain a job shall be identified in the member's service plan and approved by the case manager or service worker.

~~(6) (7)~~ (7) (8) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

c. Required service components. To participate in the consumer choices option, a ~~consumer member~~ member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid ~~HCBS mental-retardation waiver services~~ provider.

~~(4)~~ (5) Before hiring the ~~individual independent~~ independent support broker, the ~~consumer member~~ member shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2) If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

d. Optional service components. A consumer member who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the consumer's member's home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the consumer member remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the consumer member in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the consumer's member's service plan. The item or service shall ~~decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.
2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

e. Development of the individual budget. The individual independent support broker shall assist the consumer member in developing and implementing the consumer's member's individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the consumer member as described in paragraph ~~"d."~~ 78.41(15)"d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

- 13. Nutritional supplements.
- 14. Personal entertainment items.
- 15. Repairs and maintenance of motor vehicles.
- 16. Room and board, including rent or mortgage payments.
- 17. School tuition.
- 18. Service animals.
- 19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification. When authorized, the budget may include an amount allocated for a home or vehicle modification. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.41(15)“d.” The savings plan shall meet the requirements in paragraph 78.41(15)“f.”

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

- 1. The specific goods, services, supports or supplies to be purchased through the savings plan.
- 2. The amount of the individual budget allocated each month to the savings plan.
- 3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

- 1. Be used to meet a member's identified need,
- 2. Be medically necessary, and
- 3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The consumer member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.
(2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

~~g.~~ h. Delegation of budget authority. The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

(1) The representative must be at least 18 years old.

(2) The representative shall not be a current provider of service to the ~~consumer~~ member.

(3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.

(4) The representative shall not be paid for this service.

~~h.~~ i. Employer authority. The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:

(1) to (8) No change.

~~i.~~ j. Employment agreement. Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.

~~j.~~ k. Responsibilities of the independent support broker. The independent support broker shall perform the following services specified in 78.34(13) "j." as directed by the member or the member's representative:

(1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.

(2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.

(3) Complete the required employment packet with the financial management service.

(4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.

(5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.

(6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.

(7) Assist the member with negotiating with entities providing services and supports if requested by the member.

(8) Assist the member with contracts and payment methods for services and supports if requested by the member.

(9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.

(10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.

(11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

k.1. Responsibilities of the financial management service. The financial management service shall perform all of the following services specified in 78.34(13)“k.”:

- (1) Receive Medicaid funds in an electronic transfer.
- (2) Process and pay invoices for approved goods and services included in the individual budget.
- (3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.
- (4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).
- (5) Conduct criminal background checks on potential employees.
- (6) Verify for the member an employee’s citizenship or alien status.
- (7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:
 1. Verifying that hourly wages comply with federal and state labor rules.
 2. Collecting and processing timecards.
 3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.
 4. Computing and processing other withholdings, as applicable.
 5. Processing all judgments, garnishments, tax levies, or other withholding on an employee’s pay as may be required by federal, state, or local laws.
 6. Preparing and issuing employee payroll checks.
 7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
 8. Processing federal advance earned income tax credit for eligible employees.
 9. Refunding over-collected FICA, when appropriate.
 10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member’s employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state’s quality management strategy related to the financial management service.

ITEM 5. Amend subrule 78.43(15) as follows:

78.43(15) Consumer choices option. The consumer choices option provides a ~~consumer~~ member with a flexible monthly individual budget that is based on the ~~consumer’s~~ member’s service needs. With the individual budget, the ~~consumer~~ member shall have the authority to purchase goods and services to meet the member’s assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member’s assessed need or goal established in the member’s service plan. Components of this service are set forth below.

a. Agreement. As a condition of participating in the consumer choices option, a ~~consumer~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk

Agreement, to document that the consumer member has been informed of the responsibilities and risks of electing the consumer choices option.

b. Individual budget amount. A monthly individual budget amount shall be ~~set~~ established for each consumer. ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget, based~~ member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan. The consumer member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a consumer member in the HCBS brain injury waiver are:

1. to 9. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(4)~~ 78.43(15) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the consumer's member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.43(15) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.43(15) "b"(3).

~~(5) (6)~~ (6) Anticipated costs for home and vehicle modification, specialized medical equipment, and supported employment services to obtain a job are not subject to the average cost in subparagraph ~~(2)~~ 78.43(15) "b"(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.43(15) "b"(3). Anticipated costs for these services shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications, specialized medical equipment, and supported employment services to obtain a job shall be identified in the member's service plan and approved by the case manager or service worker. ~~Costs for home and vehicle modification these services may be released~~ paid to the financial management services provider in a one-time payment.

~~(6) (7)~~ (7) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

c. Required service components. To participate in the consumer choices option, a consumer member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS brain injury waiver services provider.

(1) Before hiring the individual independent support broker, the consumer member shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2) If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

d. Optional service components. A consumer member who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the consumer's member's home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the consumer member remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the consumer member in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the consumer's member's service plan. The item or service shall ~~decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.
2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.
3. Be accommodated within the member's budget without compromising the member's health and safety.
4. Be provided to the member or directed exclusively toward the benefit of the member.
5. Be the least costly to meet the member's needs.
6. Not be available through another source.

e. Development of the individual budget. The ~~individual~~ independent support broker shall assist the ~~consumer member~~ in developing and implementing the ~~consumer's member's~~ individual budget. The individual budget shall include:

- (1) The costs of the financial management service.
- (2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the ~~consumer member~~ as described in paragraph ~~"d."~~ 78.43(15)"d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.
2. Clothing not related to an assessed medical need.
3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.
4. Costs associated with shipping items to the member.
5. Experimental and non-FDA-approved medications, therapies, or treatments.
6. Goods or services covered by other Medicaid programs.
7. Home furnishings.
8. Home repairs or home maintenance.
9. Homeopathic treatments.
10. Insurance premiums or copayments.
11. Items purchased on installment payments.
12. Motorized vehicles.
13. Nutritional supplements.
14. Personal entertainment items.
15. Repairs and maintenance of motor vehicles.
16. Room and board, including rent or mortgage payments.
17. School tuition.
18. Service animals.
19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.
20. Sheltered workshop services.
21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.
22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification or specialized medical equipment. When authorized, the budget may include an amount allocated for a home or vehicle modification or specialized medical equipment. Before becoming part of the individual budget, all home and vehicle modifications and specialized medical equipment shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification or equipment.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.43(15)“d.” The savings plan shall meet the requirements in paragraph 78.43(15)“f.”

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member's identified need,

2. Be medically necessary, and

3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The ~~consumer~~ member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

~~g.~~ h. *Delegation of budget authority.* The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

- (1) The representative must be at least 18 years old.
- (2) The representative shall not be a current provider of service to the ~~consumer~~ member.
- (3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.
- (4) The representative shall not be paid for this service.

~~h.~~ i. *Employer authority.* The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:

- (1) to (8) No change.

~~i.~~ j. *Employment agreement.* Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.

~~j.~~ k. *Responsibilities of the independent support broker.* The independent support broker shall perform the following services specified in 78.34(13)“j.” as directed by the member or the member's representative:

- (1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.
- (2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.
- (3) Complete the required employment packet with the financial management service.
- (4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.
- (5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.
- (6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.
- (7) Assist the member with negotiating with entities providing services and supports if requested by the member.
- (8) Assist the member with contracts and payment methods for services and supports if requested by the member.
- (9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.
- (10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.
- (11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

~~k.~~ l. *Responsibilities of the financial management service.* The financial management service shall perform all of the following services specified in 78.34(13)“k.”:

- (1) Receive Medicaid funds in an electronic transfer.
- (2) Process and pay invoices for approved goods and services included in the individual budget.
- (3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.
- (4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).
- (5) Conduct criminal background checks on potential employees.
- (6) Verify for the member an employee's citizenship or alien status.
- (7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

1. Verifying that hourly wages comply with federal and state labor rules.
2. Collecting and processing timecards.
3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.
4. Computing and processing other withholdings, as applicable.
5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.
6. Preparing and issuing employee payroll checks.
7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
8. Processing federal advance earned income tax credit for eligible employees.
9. Refunding over-collected FICA, when appropriate.
10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member's employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 6. Amend subrule 78.46(6) as follows:

78.46(6) *Consumer choices option.* ~~The consumer choices option provides a consumer member with a flexible monthly individual budget that is based on the consumer's member's service needs. With the individual budget, the consumer member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.~~

a. Agreement. As a condition of participating in the consumer choices option, a ~~consumer member~~ shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer member~~ has been informed of the responsibilities and risks of electing the consumer choices option.

b. Individual budget amount. A monthly individual budget amount shall be ~~set~~ established for each ~~consumer. The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget,~~ member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan. The consumer member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ in the HCBS physical disability waiver are:

1. to 4. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(4)~~ 78.46(6) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's~~ member's service plan ~~when before~~ calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.46(6) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.46(6) "b"(3).

~~(5) (6)~~ Anticipated costs for home and vehicle modification and specialized medical equipment are not subject to the average cost in subparagraph ~~(2)~~ 78.46(6) "b"(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.46(6) "b"(3). Anticipated costs for home and vehicle modification and specialized medical equipment shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications and specialized medical equipment shall be identified in the member's service plan and approved by the case manager or service worker. Costs for home and vehicle modification and specialized medical equipment may be released paid to the financial management services provider in a one-time payment.

~~(6) (7)~~ The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

c. Required service components. To participate in the consumer choices option, a ~~consumer~~ member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS ~~physical disability waiver services~~ provider.

~~(1)~~ Before hiring the individual independent support broker, the consumer member shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2)~~ If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.

d. Optional service components. A ~~consumer~~ member who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's~~ member's home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer~~ member remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer~~ member in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the ~~consumer's~~ member's service plan. ~~The item or service shall decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.

2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

e. Development of the individual budget. The individual independent support broker shall assist the consumer member in developing and implementing the consumer's member's individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the consumer member as described in paragraph ~~"d."~~ 78.46(6)"d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

13. Nutritional supplements.

14. Personal entertainment items.

15. Repairs and maintenance of motor vehicles.

16. Room and board, including rent or mortgage payments.

17. School tuition.

18. Service animals.

19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification or specialized medical equipment. When authorized, the budget may include an amount allocated for a home or vehicle modification or specialized medical equipment. Before becoming part of the individual budget, all home and vehicle modifications and specialized medical equipment shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification or equipment.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.46(6)"d." The savings plan shall meet the requirements in paragraph 78.46(6)"f."

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member's identified need,

2. Be medically necessary, and

3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The ~~consumer~~ member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services with the exception of the independent support broker and the financial management service. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

g. h. Delegation of budget authority. The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

(1) The representative must be at least 18 years old.

(2) The representative shall not be a current provider of service to the ~~consumer~~ member.

(3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.

(4) The representative shall not be paid for this service.

h. i. Employer authority. The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A

common-law employer has the right to direct and control the performance of the services. The ~~consumer member~~ may perform the following functions:

(1) to (8) No change.

~~i. j.~~ *Employment agreement.* Any person employed by the ~~consumer member~~ to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer member~~ that outlines the employee's and ~~consumer's member's~~ responsibilities.

~~j. k.~~ *Responsibilities of the independent support broker.* The independent support broker shall perform the following services ~~specified in 78.34(13)"j."~~ as directed by the member or the member's representative:

(1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.

(2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.

(3) Complete the required employment packet with the financial management service.

(4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.

(5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.

(6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.

(7) Assist the member with negotiating with entities providing services and supports if requested by the member.

(8) Assist the member with contracts and payment methods for services and supports if requested by the member.

(9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.

(10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.

(11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

~~k. l.~~ *Responsibilities of the financial management service.* The financial management service shall perform all of the following services ~~specified in 78.34(13)"k."~~:

(1) Receive Medicaid funds in an electronic transfer.

(2) Process and pay invoices for approved goods and services included in the individual budget.

(3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.

(4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).

(5) Conduct criminal background checks on potential employees.

(6) Verify for the member an employee's citizenship or alien status.

(7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

1. Verifying that hourly wages comply with federal and state labor rules.

2. Collecting and processing timecards.

3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.

4. Computing and processing other withholdings, as applicable.

5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.

6. Preparing and issuing employee payroll checks.

7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
8. Processing federal advance earned income tax credit for eligible employees.
9. Refunding over-collected FICA, when appropriate.
10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member's employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state's quality management strategy related to the financial management service.